IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 27251 of 2006(T)

PETITIONER:

DAMODARAN V.V., S/O. T.V.KARYAMBU,
AGED 57, MANAGER, MALABAR REGIONAL CO-OPERATIVE
MILK PRODUCERS UNION LTD., KANNUR DAIRY,
PALLIKUNNU P.O., KANNUR DISTRICT.

BY ADV. SRI.T.B.THANKAPPAN
SMT.ALICE THOMAS

RESPONDENTS:

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1. THE SECRETARY TO THE GOVERNMENT OF
KERALA, DEPARTMENT OF AGRICULTURE (DAIRY),
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE MANAGING DIRECTOR,
MALABAR REGIONAL CO-OPERATIVE MILK PRODUCERS
UNION LTD., PERINGALAM, KOZHIKODE-673 571.

3. VIJAYAKUMARAN K.M.,
ASSISTANT MANAGER (MATERIALS),
MALABAR REGIONAL CO-OPERATIVE MILK PRODUCERS
UNION LTD., PERINGALAM, KOZHIKODE.

BY ADV. SRI.B.S.KRISHNAN(SR.), SC, MILMA
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:-

EXT.P1	A TRUE COPY OF THE TRANSFER ORDER NO.PER:73:85 DATED 05/08/1987
EXT.P2	A TRUE COPY OF THE PROCEEDINGS NO.MRU/PER/41/92/1363 DATED 02.03.2000 OF THE MANAGING DIRECTOR, MRCMPU LTD., KOZHIKODE
EXT.P3	A TRUE COPY OF THE REPLY ---- DO NO.MRU/PER/84/91/1633 DATED 14/03/2000
EXT.P4	A TRUE COPY OF THE ORDER WHILE WORKING AS MANAGER AT PALAKKAD DAIRY
EXT.P5	A TRUE COPY OF THE ORDER DATED 12/10/2006
EXT.P6	A TRUE COPY OF THE REPRESENTATION DATED 12/10/2006

\\TRUE COPY //

J.M.JAMES, J.

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W.P.(C) No. 27251 of 2006 (T)

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Dated this the 30th day of November, 2006

J U D G M E N T

Writ petitioner is working as a Manager under the 2nd respondent Milk Producers Union. He is at present posted at Kannur. Though, he hails from Kasaragode District, he has settled at Kannur and is to retire on 30/04/2007. He is also suffering from various ailments due to his age and not able to undertake repeated travels. Hence, it is prayed that his transfer, from Kannur to Kozhikode, passed by the 2nd respondent, may be set aside.

2. Counter affidavit has been filed by the 2nd respondent. It is submitted that there is no mala fide in the transfer, as alleged by the writ petitioner. Further, it is submitted that the writ petitioner is the seniormost person, who has to execute a project of the Central Government, namely, Integrated Dairy Development Project (IDDP) and Clean Milk Production (CMP), where the Government of India finances both the above projects. It is also stated that the above projects are

to be completed on or before 31/03/2007. Hence, the prayer of the 2nd respondent is that for the completion of the project, placement of the writ petitioner at Kozhikode, is necessary.

3. In the reply affidavit, the writ petitioner has stated that one Damodaran Nair (Manager Grade-I), is looking after the said project of the Central Government, at Kozhikode, as directed by the 2nd respondent. The learned counsel for the writ petitioner, emphatically submitted that, because of the mala fide intention of the management, despite the availability of M/s.Damodaran Nair and Vijayakumaran, the petitioner is being shifted.

4. It is true that in the case of transfers and postings of the employees, unless manifest mala fide action of the employer is brought out, there shall not be any interference from the court of law. However, in the case at hand, exigencies of service are alleged to be the reason for transfer of the writ petitioner from Kannur to Kozhikode. Merely because he is due to retire, will not be a ground to cancel the transfer. However, it is submitted that, he is a person suffering from various ailments.

When the project sponsored by the Central Government as stated above, have to be implemented, although two other persons are deployed to look after that work and are present in the unit, yet because of the experience and seniority of the petitioner, his presence is also required for the efficient completion of the Central Government project, within the time limit.

5. In the above fact situation, I direct the writ petitioner to join the Kozhikode unit, on or before, 05/12/2006, work there for a period of two months thereon. The 2nd respondent shall, thereafter, transfer him back to the Kannur unit, considering that he is a person suffering from Rheumatic Arthritis and also that he is to retire on 30/04/2007. He shall be allowed to continue at Kannur unit for the remaining period, till his retirement.

With the above directions this writ petition is closed.

(J.M.JAMES)
Judge

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